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10/783,322

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Dale Lowell Peterson

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

EXAMINER

MEINECKE DIAZ, SUSANNA M

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/783,322	Applicant(s) PETERSON ET AL.	
	Examiner Susanna M. Diaz	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 1988.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This final Office action is responsive to Applicant's reply filed July 3, 2008.

No claims have been amended.

Claims 1-12 are presented for examination.

Response to Arguments

2. Applicant's arguments filed July 3, 2008 have been fully considered but they are not persuasive.

Applicant's arguments center around the assertion that there is no teaching or suggestion in Sherman to transmit queries to multiple lenders because Sherman allegedly only allows the dealer and customer access to one lender for conditional approval or multiple lenders to submit for approval (pages 5-8 of Applicant's response). The Examiner submits that the intermediary and loan applicant can submit multiple requests for a loan "if multiple lenders requests [sic] additional information from the applicant. The advantage to this feature is that lenders may review applicant information selectively, and the intermediary may choose any or all lenders and directly interface with the multiple lenders requesting additional information." (§ 35, *Emphasis added*) The lenders must be made aware of an applicant's interest in a loan before the lenders can request additional information. In the art rejection, the Examiner has already conceded that Sherman does not clearly query each individual lender serially (i.e., Sherman does not explicitly teach (j) repeating steps h and i, after said receiving of the response, so as to query any remaining lenders matched); however, Sherman

provides various suggestions for controlling an order of queries in a more serial fashion. For example, Sherman recognizes that it is more cost and time efficient to limit the resources spent by multiple lenders on each applicant during a loan approval process. Sherman specifically states “that once the intermediary or applicant accepts a loan from a lender which originally requested additional information, the other lenders request for additional information is withdrawn from the system. The advantage to this feature is that, if an intermediary or applicant selects a loan program which requests additional information, the other lenders may stop their review before they incur **additional** costs.” (¶ 36, *Emphasis added*) The claims are rejected under 35 U.S.C. § 103; therefore, it is acknowledged that Sherman does not fully anticipate the claimed invention. However, the Examiner submits that the multi-stage processes that can potentially involve interaction with various lenders is enough to at least suggest querying various lenders in series (e.g., to make Sherman's approval process more cost and time efficient, which is a goal of Sherman).

Applicant argues that Sherman's consolidation declination letter teaches against claim 1 because the declination letter summarizes declined loans as opposed to a summary of approved loans (page 8 of Applicant's response). Again, the Examiner concedes that the declination letter is not the same as a summary of approved loans; however, Sherman's own disclosure suggests the general benefits of consolidating information (e.g., to prevent transmission of duplicative information, as seen in ¶¶ 7, 37, 38, 62) and Sherman continuously emphasizes the goal of making the loan processing more efficient by minimizing costs and wasted time (¶¶ 32, 33, 120). Furthermore,

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within the claim scope, it is possible that only one lender responded with an approval. Applicant clearly acknowledges in the arguments section that one lender may approve a loan. The intermediary and lender are informed of the loan approval, as seen in ¶¶ 115-121 of Sherman. At the very least, Sherman presents to the loan customer at least one lender who responded with an approval. Since Sherman may query multiple lenders and allow the intermediary and loan applicant to consider the available loan options and Sherman discusses the benefits of information consolidation in terms of sending a single loan declination letter, the Examiner maintains that the modifications of Sherman discussed in the art rejection would have indeed been obvious to one of ordinary skill in the art at the time of Applicant's invention.

Applicant's arguments are non-persuasive and the rejections are maintained.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman et al. (US 2003/0229582).

Sherman discloses a method of matching a loan consumer with lenders via the Internet comprising:

[Claim 1] a) receiving application information from the loan consumer (¶¶ 56-57, 112

-- While the dealer may be the one who enters the application information, the dealer is acting on behalf of the customer and the customer is often sitting with the dealer assisting him/her with the data entry);

b) storing the application information in a database (¶¶ 57, 117, 125-128);

c) applying a filter to the application information to determine if the loan consumer meets a set of loan criteria (¶¶ 25, 26, 50-55, 57, 60);

d) submitting a subset of the application information to a credit bureau (¶ 57);

e) receiving a credit report based on said submitting of the subset step (¶ 57);

f) searching a lender database to match the loan customer application information and credit report to lenders in the database (¶¶ 57-63, 107);

g) matching the loan customer application information to one or more lenders in the database (¶¶ 57-63, 107);

h) transmitting a query to a lender of the one or more matched lenders (¶¶ 113-121);

i) receiving a response from the lender based on the query (¶¶ 115-121);

l) storing a loan customer decision based on said presenting step (¶¶ 117, 125-128);

[Claim 9] wherein said searching step results in no matches (¶¶ 62-64).

Regarding claim 1, Sherman does not explicitly teach (j) repeating steps h and i, after said receiving of the response, so as to query any remaining lenders matched.

However, Sherman does discuss how a dealer (working in conjunction with a customer) is restricted by the risk assessment and control system to the “selection of one program displaying a conditional approval or any number of programs displaying ‘submit for approval’ status. In this manner, the efforts of multiple lenders are not wasted in processing a loan, wherein only one loan will be accepted.” (§ 113) One of Sherman’s main goals is to promote most efficient and cost effective loan processing. As seen in Sherman, filtering loan applications through predefined lending criteria reduces the “cost of processing needless applications by the lender” (§ 32) and requires that an “intermediary need only review one location for available programs of preselected lenders and thereby, decreases the amount of time required to qualify the application in a program compatible with the applicant’s financial criteria” (§ 33). Overall, Sherman envisions allowing a dealer and customer to have access to a wide range of available loan programs; however, the dealer and customer can only further pursue a limited number of lenders who are considered to be the most likely to grant the customer a loan. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to modify Sherman to perform the steps of (j) repeating steps h and i, after said receiving of the response, so as to query any remaining lenders matched so that potential lenders are only actively queried for a finalized loan approval as necessary. For example, Sherman only allows one program displaying a conditional approval and any number of “submit for approval” status programs to be selected in order to minimize wasted efforts on the part of multiple lenders (§ 113). However, if the customer does not find an acceptable loan

with these programs (i.e., the initial group of matched lenders), then it would make sense to query another subset of potential lenders to try to find a match. The controlled communication between dealer/customer and subsets of lenders allows for matches most likely to be successful to be queried first, thereby minimizing the time and money that would otherwise be wasted by lenders who are less likely to yield a good loan match for the customer (§ 120). Step (j) of claim 1 facilitates such communication control between dealer/customer and lenders since subsets of potential lenders would only be progressively queried as earlier subsets of matches prove to be futile. Overall, this iterative process would more often than not prevent needless amounts of time and money from being expended as compared to the scenario in which all available lenders are queried at once.

Regarding claim 1, Sherman does not explicitly disclose the step of (k) presenting to the loan customer only lenders who responded with an approval; however, Sherman does teach that all loan declinations may be consolidated and transmitted to the customer in one declination letter to prevent transmission of duplicative information (§§ 7, 37, 38, 62). Sherman continuously emphasizes the goal of making the loan processing more efficient by minimizing costs and wasted time (§§ 32, 33, 120). As seen in § 116, the dealer and customer are generally interested in negotiating good loan terms for the customer. Multiple lenders may be assessed at once; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Sherman to perform the step of (k) presenting to the loan customer only lenders who responded with an approval in order to reduce

transmission of duplicative information and also provide the dealer and customer with a more focused and convenient view of the loan programs most likely to be of interest to the customer, thereby minimizing the time spent by the dealer and customer in comparing the terms offered by multiple lenders.

5. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman et al. (US 2003/0229582), as applied to claim 1 above, in view of Official Notice.

[Claims 11, 12] As per claims 11 and 12, Sherman does not explicitly disclose that [Claim 11] step (k) includes sending only a predetermined number of lender responses, [Claim 12] wherein the predetermined number of lender responses is four or less than four responses. As seen in ¶¶ 113 and 120 of Sherman, Sherman envisions a limit in the number of conditional approval loan programs that may be selected by a dealer and customer in order to prevent a large number of lenders from needlessly wasting time and money to process loan information, especially when only one lender will be selected in the end. Official Notice is also taken that it was old and well-known in the art at the time of Applicant's invention to limit the number of items or services to be compared to one another to a manageable number (e.g., a number of four or less). This helps to control the amount of information that a user has to process at once, thereby making the comparison process more manageable. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Sherman such that [Claim 11] step (k) includes sending

only a predetermined number of lender responses, [Claim 12] wherein the predetermined number of lender responses is four or less than four responses in order to more manageably present information to the dealer and customer for a quicker comparison of lenders while limiting the number of lenders involved in the process at one time in order to prevent a large number of lenders from needlessly wasting time and money to process loan information, especially when only one lender will be selected in the end.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman et al. (US 2003/0229582), as applied to claim 1 above, in view of Lent (U.S. Patent No. 6,324,524), and further in view of Official Notice [now admitted prior art]. [Claims 2, 3] Sherman does not explicitly disclose the steps of [Claim 2] validating the application information, [Claim 3] detecting an error and transmitting an error message to the loan consumer. However, Lent performs a validation of similar application data for purposes of extending credit (col. 4, lines 25-35; col. 6, lines 1-10; col. 7, lines 45-50), an approval process which is similar to that of approving a loan and Lent displays to an applicant the reason for rejection of an application (col. 12, lines 62-66). Official Notice is taken that it was old and well-known in the art of loan/credit processing that the applicant be made aware of the reason for rejection of an application for credit and/or a loan so that the applicant can attempt to correct any erroneously submitted data (e.g., a mistyped social security number) or be made aware of fraud being committed in his/her name (e.g., identity theft) [now admitted prior art]. Sherman too

discloses that a loan declination letter must be sent to declined loan applicants, setting forth the reasons for decline by the lender (§§ 6, 62). Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Sherman to perform the steps of [Claim 2] validating the application information, [Claim 3] detecting an error and transmitting an error message to the loan consumer (as taught by Lent) in order to assist a rejected applicant in correcting any erroneously submitted data (e.g., a mistyped social security number) or in becoming aware of fraud being committed in his/her name (e.g., identity theft).

7. Claims 4-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sherman et al. (US 2003/0229582), as applied to claims 1 and 9 above, in view of Lent (U.S. Patent No. 6,324,524).

[Claim 4] Sherman does not expressly disclose that step (b) further comprises determining that the application information has been previously received less than a predetermined number of days prior and informing the loan customer to delay a new submission of application information until after the predetermined number of days is expired; however, Lent discloses that an applicant may be limited to reapplying for credit after a specified time period has elapsed (e.g., every 60 days) and informs the applicant of this requirement if applicant attempts to reapply before the time period is up (col. 8, lines 41-55). Both Sherman and Lent are directed toward processing requests for credit and/or a loan (which is based on one's credit score); therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of

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Applicant's invention to modify Sherman such that step (b) further comprises determining that the application information has been previously received less than a predetermined number of days prior and informing the loan customer to delay a new submission of application information until after the predetermined number of days is expired (as taught by Lent) in order to prevent a credit report from being needlessly accessed multiple times (as suggested in col. 8, lines 34-38 of Lent).

[Claims 5, 6] Sherman does not expressly disclose that an active determination is made as to whether or not the application information has been previously stored more than a predetermined number of days (claims 5, 6) to either generate a loan consumer profile based on the application information (claim 5) or update a corresponding previously generated loan consumer profile (claim 6); however, Lent makes up for these deficiencies. Lent checks to see if entered applications are duplicate, previously interrupted, or new applications (they are presumed to be new if not a duplicate or previously interrupted) (col. 8, lines 31-61). Both Sherman and Lent are directed toward processing requests for credit and/or a loan (which is based on one's credit score); therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Sherman wherein step (b) further comprises determining that the application information has not been previously stored and generating a loan consumer profile based on the application information (claim 5) and wherein step (b) further comprises determining that the application information has been previously stored more than a predetermined number of days prior and updating a corresponding previously generated loan consumer profile (claim 6) in order to prevent

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a credit report from being needlessly accessed multiple times (as suggested in col. 8, lines 34-38 of Lent) or to prevent the applicant from needlessly re-entering application data from scratch when the application process was previously interrupted (as suggested in col. 8, lines 59-61 of Lent).

[Claims 7, 10] Sherman discloses the steps of determining that the stored application information does not meet the set of loan criteria (¶¶ 25, 26, 50-55, 57, 60) and transmitting a service denial message to the loan consumer (¶¶ 62-64); however, Sherman does not expressly disclose the step of applying a timestamp to the profile. Lent timestamps validation statuses in order to track an application profile history and identify fraud (col. 7, lines 51-58). Lent also discloses an approval process which is similar to that of approving a loan and Lent displays to an applicant the reason for rejection of an application (col. 8, lines 52-55; col. 12, lines 62-66). Both Sherman and Lent are directed toward processing requests for credit and/or a loan (which is based on one's credit score); therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Sherman to perform the step of applying a timestamp to the profile (as taught by Lent) in order to assist in tracking application profile histories to identify fraud while assisting a rejected applicant in correcting any erroneously submitted data (e.g., a mistyped social security number) or in becoming aware of fraud being committed in his/her name (e.g., identity theft).

Sherman discloses:

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[Claim 8] wherein step (c) further comprises:

determining that the stored application information does meet the set of loan criteria (¶¶ 25, 26, 50-55, 57, 60); and

formatting the stored application information into a format usable by a credit bureau (¶ 57).

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of copending Application No. 10/783,322. Although the conflicting claims are not identical, they are not patentably distinct from each other because the main difference between

the two claim sets is the specification that the filter and loan criteria are internally specified. Claim 11 of Application No. 11/648,514 further defines the internally specified loan criteria as being determined and set by “applying one or more of publicly available information, historical lender loan decisions, and market experience.” Sherman discloses the step of applying an internally specified filter to the application information to determine if the loan consumer meets a set of internally specified loan criteria (¶¶ 25, 26, 50-55, 57, 60), wherein the internally specified loan criteria is determined and set by applying one or more of publicly available information, historical lender loan decisions, and market experience (¶ 57 – Evaluation of credit risk, e.g., based on an applicant’s credit report, is indicative at least of market experience); therefore, the Examiner submits that the use of internally specifically loan criteria, such as information associated with credit risk (e.g., market experience) would have been obvious to one of ordinary skill in the art to implement with a loan application processing system at the time of Applicant’s invention since it provides an accepted, standard benchmark by which various applications may be fairly assessed. Also, as seen in Sherman, filtering loan applications through predefined lending criteria reduces the “cost of processing needless applications by the lender” (¶ 32) and requires that an “intermediary need only review one location for available programs of preselected lenders and thereby, decreases the amount of time required to qualify the application in a program compatible with the applicant’s financial criteria” (¶ 33).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susanna M. Diaz/
Primary Examiner, Art Unit 3692